

REMARKS

This is in response to the Official Action currently outstanding with regard to the above-identified application, which Official Action the Examiner has designated as being FINAL.

Claims 10 - 13 were pending at the time of the issuance of the currently outstanding Official Action.

By the foregoing Amendment, it is proposed that Claim 10 be amended and that Claim 13 be canceled, without prejudice, so as to place this application in condition for allowance, or at least in better form for Appeal, pursuant to 37 CFR 1.116. Consequently, in the event that the foregoing Amendment is granted entry by the Examiner, Claims 10-12 (as amended) will constitute the claims under active prosecution in this application.

The claims of this application and their current status are set forth above in accordance with the Rules.

More particularly, in the currently outstanding Official Action the Examiner has:

1. Acknowledged Applicants' claim for foreign priority under 35 USC 119(a)-(d) or (f), and has confirmed the receipt of the required copies of the priority documents by the United States Patent and Trademark Office;

2. Indicated that the drawings as filed on 7 June 2004 are accepted (Note also that the new formal drawings filed concurrently with the Combined Request for Drawing Change Approval and Amendment After Final Rejection Under 37 CFR 1.116 filed on 17 November 2004 were approved by the Examiner in the Advisory Action dated 13 December 2004);
3. Indicated that Claims 10 – 12 are allowed (Note also that the allowance of Claims 10-12 was repeated in the Advisory Action dated 13 December 2004 but that Advisory Action failed to indicated whether or not the clarifying amendments to Claim 10 filed as part of the Combined Request for Drawing Change Approval and Amendment After Final Rejection Under 37 CFR 1.116 filed on 17 November 2004 were entered and approved); and
4. Maintained her rejection of Claim 13 under 35 USC 112, but indicated that Claim 13 would be allowable if rewritten so as to overcome his rejection under 35 USC 112 and so as to include all of the limitations of its base claim and any intervening claims.

Further comment in these Remarks regarding items 1 - 2 is not deemed to be required.

With respect to item 3, the foregoing amendment is for the purpose of confirming that the corrections of certain typographical errors in the designations “p3” and “p5” in the claims filed as part of Applicants’ Combined Request for Drawing Change Approval and Amendment After Final Rejection Under 37 CFR 1.116 filed on 17 November 2004 were approved, and if not, to secure such approval in response to this communication.

Specifically, it will be noted that at page 33, line 19, to page 34, line 3, and in Figure 12 it is indicated that in a manner analogous to that shown with respect to the quantity "t4" (see page 15, second paragraph), the quantity "p4" is an optical thickness of the light transmitting body at which the objective lens is designed ("set") so as to provide minimum spherical aberration. The wording of the claims is correctly matched to the reference sign "p4" as explained in the specification.

Unfortunately, however, the current claims inadvertently utilize the reference signs "t4" and "t5" instead of the reference signs "p3", "p4" and "p5" in Claim 10.

More particularly, in Claim 10 the reference sign "t4" should read "p3". This is clear from the present specification and the wording of the claim itself. Hence, at page 34, line 17 to page 35, line 1, it clearly appears that "p3" is the distance from the surface of the recording medium to a mid-position between the first recording layer and the N-th recording layer in a recording medium having N recording layers.

Applicants respectfully request that the foregoing clarifying amendments be entered by the Examiner so as to conform the reference signs used in the Claims to the wording of the associated specification.

With respect to item 4 above, Applicants now have proposed the cancellation of Claim 13, without prejudice.

Accordingly, since only allowed Claims 10-12 will remain in the present application in the event that the Examiner allows entry to the foregoing Amendment and since the foregoing Amendment otherwise only proposes amendments to an otherwise allowed claim to conform its wording to that of the specification, Applicants respectfully submit that the entry of the foregoing Amendment will place this application in condition for allowance as required by 37 CFR 1.116.

Therefore, entry of the foregoing amendment and allowance of this application in response to this communication is respectfully requested.

Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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